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the interests of the vast majority of carriers whose advertising is fair and accurate.

(c) Failure to conform to the requirements of this subpart shall be a material breach of the contract and may result in withdrawal of approval to continue participation in the FEHB Program.

[52 FR 16039, May 1, 1987. Redesignated at 62 FR 47574, Sept. 10, 1997]

1603.7002 Additional guidelines.

Any advertisements which identify a carrier's participation in the FEHBP shall—

(a) Be limited to the merits of the carrier's FEHBP plan and shall be limited to factual statements of the benefits and rates offered by that plan. The official document for benefit and rate comparisons among FEHBP plans is the comparison chart issued by OPM.

(b) Not use the FEHBP logo.

(c) Recognize that the officially approved plan brochure is the sole contractual statement of benefits, limitations, and exclusions. All advertisements that in any way discuss plan benefits shall contain the following statement:

This is a summary (or brief description) of the features of the (plan's name). Before making a final decision, please read the plan's officially approved brochure, (brochure number). All benefits are subject to the definitions, limitations, and exclusions set forth in the official brochure.

(d) Set forth the rates for the plan, if the advertisements discuss benefits.

(e) Not give instructions on enrollment. Statements on enrollment procedures, requirements, or eligibility shall be limited to those such as:

To sign up, fill out a Health Benefits Registration Form (Standard Form 2809) from your personnel office indicating the enrollment you want:

The enrollment codes for (plan's name) are:

Self Only _____ Enrollment Code _____

Self and Family _____ Enrollment Code _____

The form must then be returned to your personnel office before the (date) deadline. Your (plan's name) coverage will begin the first pay period in January, (year). If you are a retired Federal employee and need forms,

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contact the Office of Personnel Management at P.O. Box 809, Washington, DC 20044.

[52 FR 16039, May 1, 1987. Redesignated at 62 FR 47574, Sept. 10, 1997]

1603.7003 Contract clause.

The clause at 1652.203-70 shall be inserted in all FEHBP contracts.

[52 FR 16039, May 1, 1987. Redesignated at 62 FR 47574, Sept. 10, 1997]

PART 1604—ADMINISTRATIVE MATTERS

Subpart 1604.7—Contractor Records Retention

Sec.

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Subpart 1604.72—Large Provider Agreements

1604.7201 FEHB Program Large Provider Agreements.

1604.7202 Large Provider Agreement clause.

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 52 FR 16039, May 1, 1987, unless otherwise noted.

Subpart 1604.7—Contractor Records Retention

1604.703 Policy.

In view of the unique payment schedules of FEHBP contracts and the compelling need for records retention periods sufficient to protect the Government's interest, contractors shall be required to maintain records for periods determined in accordance with the provisions of FAR 4.703(b)(1).

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1604.705 Specific retention periods.

Unless the contracting officer determines that there exists a compelling reason to include only the contract clause specified by FAR 52.215-2 “Audit & Records—Negotiation,” the contracting officer shall insert the clause at 1652.204-70 in all FEHBP contracts.

[52 FR 16039, May 1, 1987, as amended at 62 FR 47574, Sept. 10, 1997]

Subpart 1604.9—Taxpayer Identification Number

SOURCE: 65 FR 36386, June 8, 2000, unless otherwise noted.

1604.970 Taxpayer Identification Number.

Insert the clause at section 1652.204-73 in all FEHBP contracts.

Subpart 1604.70—Coordination of Benefits

1604.7001 Coordination of benefits clause.

OPM expects all FEHBP plans to coordinate benefits. Accordingly, the clause set forth at 1652.204-71 shall be inserted in all FEHBP contracts.

Subpart 1604.71—Disputed Health Benefit Claims

1604.7101 Filing health benefit claims/court review of disputed claims.

Guidelines for a Federal Employees Health Benefit (FEHB) Program covered individual to file a claim for payment or service and for legal actions on disputed health benefit claims are found at 5 CFR 890.105 and 890.107, respectively. The contract clause at 1652.204-72 of this chapter, reflecting this guidance, must be inserted in all FEHB Program contracts.

[61 FR 15198, Apr. 5, 1996]

Subpart 1604.72—Large Provider Agreements

SOURCE: 70 FR 31379, June 1, 2005, unless otherwise noted.

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

1604.7201 FEHB Program Large Provider Agreements.

The following provisions apply to all experience-rated carriers participating in the FEHB Program:

(a) *Notification and information requirements.* (1) All experience-rated carriers must provide notice to the contracting officer of their intent to enter into or to make a significant modification to a Large Provider Agreement. Significant modification means a 20% increase or more in the amount of the Large Provider Agreement:

(i) Not less than 60 days before entering into any Large Provider Agreement; and

(ii) Not less than 60 days before exercising renewals or other options, or making a significant modification.

(2) The carrier's notification to the contracting officer must be in writing and must, at a minimum:

(i) Describe the supplies and/or services the proposed provider agreement will require;

(ii) Identify the proposed basis for reimbursement;

(iii) Identify the proposed provider agreement, explain why the carrier selected the proposed provider, and, where applicable, what contracting method it used, including the kind of competition obtained;

(iv) Describe the methodology the carrier used to compute the provider's profit; and, (v) Describe the provider risk provisions.

(3) The contracting officer may request from the carrier any additional information on a proposed provider agreement and its terms and conditions prior to a Large Provider award and during the performance of the agreement.

(4) Within 30 days of receiving the carrier's notification, the contracting officer will either give the carrier written comments or written notice that there will be no comments. If the contracting officer comments, the carrier must respond in writing within 10 calendar days and explain how it intends to address any concerns.

(5) When computing the carrier's annual service charge, the contracting officer will consider how well the carrier complies with the provisions of this

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section, including the advance notification requirements, as an aspect of the carrier's performance factor.

(6) The contracting officer's review of any Large Provider agreement, option, renewal, or modification will not constitute a determination of the acceptability of terms or conditions of any provider agreement or the allowability of any costs under the carrier's contract, nor will it relieve the carrier of any responsibility for performing the contract.

(b) *Records and inspection.* The carrier must insert in all Large Provider Agreements the requirement that the provider will retain and make available to the Government all records relating to the agreement as follows:

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(1) Records that support the annual statement of operations—Retain for 6 years after the agreement term ends.

(2) Enrollee records, if applicable—Retain for 6 years after the agreement term ends.

(c) Large Provider Agreements based on cost analysis are subject to the provisions of FAR 52.215-2, "Audit and Records-Negotiation."

(d) Large Provider Agreements based on price analysis are subject to the provisions of 48 CFR 1646.301 and 1652.246-70.

1604.7202 Large Provider Agreement clause.

The contracting officer will insert the clause set forth at section 1652.204-74 in all experience-rated FEHB Program contracts.